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March 21 1879 Ed

JEFFERSON DAVIS:

A STATEMENT

CONCERNING THE IMPUTED SPECIAL CAUSES OF HIS LONG
IMPRISONMENT BY THE GOVERNMENT OF THE UNITED
STATES, AND OF HIS TARDY RELEASE BY
DUE PROCESS OF LAW;

CONTAINED IN

A LETTER

FROM THE

HONOURABLE GEORGE SHEA,
OF NEW YORK,
ONE OF HIS COUNSEL.

Reprinted from the NEW YORK TRIBUNE of January 24, 1876.

LONDON:

EDWARD STANFORD, 55, CHARING CROSS, S.W.

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1877.

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PREPARATORY NOTICE.

DURING the session, 1875-6, of the Congress of the United States, a bill was introduced to grant universal amnesty to all persons engaged on the Southern side in the late war between those States. Mr. Blaine, now the Senator from the State of Maine, urged upon the House that the bill should by name exclude the Honourable Jefferson Davis, President of the late Southern Confederacy, from the intended beneficial relief of the proposed legislation, for the reason that Mr. Davis had conducted the war in a manner not permitted by the rules of civilised nations, especially in the treatment of prisoners. Mr. Blaine's speech was very violent, and intended to further increase any unfriendly feeling which may yet exist against Mr. Davis, and, as there was no cause for personal animosity between them, it was thought, and regretted, by many people of both political parties in America that Mr. Blaine's purpose was simply to promote partisan objects. The letter of Chief Justice Shea was published in the *New York Tribune*, the leading organ of the Republican party in America, and is so generally accepted as an authentic and full refutation of those charges,

reiterated at this late day by Mr. Blaine, that we think it advisable to publish it in a form more durable than that afforded by the pages of a daily newspaper, and likewise bring it within the reach of all those who are interested in the truth of an important episode in the late American struggle ; and about which there has been so much debate in their national councils, and among their people. Of the letter now republished *The Tribune* in its issue of January 24, 1876, says, in a leading editorial, "No more important statements than these concerning that phase of the civil war have been given to the public."

THE LETTER.

To the Editor of THE TRIBUNE,

SIR,—I apprehend no one will accuse me with having ever harboured disunion proclivities, or of any inclination toward secession heresies. But truth is truth, justice is justice, and an act of proposed magnanimity should not be impaired by both an untruth and an injustice. The statement in the House of Representatives on Thursday last, made by General Banks during the debate on the proposed Amnesty Bill, was more entirely correct than, perhaps, he had reason to credit.

What I now relate are facts : Mr. Horace Greeley received a letter, dated June 22, 1865, from Mrs. Jefferson Davis. It was written at Savannah, Georgia, where Mrs. Davis and her family were then detained under a sort of military restraint. Mr. Davis himself, recently taken prisoner, was at Fortress Monroe ; and the most conspicuous special charge threatened against him by the “Bureau of Military Justice” was of guilty knowledge relating to the assassination of President Lincoln. The principal purpose of the letter was, imploring Mr. Greeley to bring about a speedy trial of her husband

upon that charge, and upon all other charges of supposed cruelties that were inferred against him. A public trial was prayed that the accusations might be as publicly met, and her husband, as she insisted could be done, readily vindicated.

To this letter Mr. Greeley at once forwarded an answer for Mrs. Davis, directed to the care of General Burge, commanding our military forces at Savannah. The morning of the next day Mr. Greeley came to my residence in this city, placed the letter from Mrs. Davis in my hand, saying that he could not believe the charge to be true; that, aside from the enormity and want of object, it would have been impolitic in Mr. Davis, or any other leader in the Southern States, as they could not but be aware of Mr. Lincoln's naturally kind heart and his good intentions toward them all; and Mr. Greeley asked me to become professionally interested in behalf of Mr. Davis.

I called to Mr. Greeley's attention that, although I was like-minded with himself as to this one view of the case, yet there was the other pending charge of cruel treatment of our Union soldiers while prisoners at Andersonville and other places, and that, unless our Government was willing to have it imputed that Wirtz was convicted and his sentence of death inflicted unjustly, it could not now overlook the superior who was, at least popularly, regarded as the moving cause of those wrongs; and that if Mr. Davis had been guilty of such

breach of the rules for the conduct of war in modern civilisation, he was not entitled to the rights of, nor to be manumitted as, a mere prisoner of war. I expressed the thought that my services before a military tribunal would be of little benefit. I hesitated ; but finally told Mr. Greeley that I would consult with some of our common friends, whose countenance would give strength to such an undertaking, if it was discovered to be right, and that none but Republicans and some of the radical kind were likely to be of positive aid. Indeed, any other would have been injurious.

It occurred to me, from recollecting conversations with Mr. Henry Wilson,¹ the previous April, while we were together at Hilton Head, South Carolina, that if Mr. Davis were guiltless of this latter offence, an avenue might be opened for a speedy trial, or for his manumission as any other prisoner of war. I did consult with such friends, and Mr. Henry Wilson, Governor John A. Andrew, Mr. Thaddeus Stevens,² and Mr. Gerrit Smith were among them. The result was that I thereupon undertook to do whatever became feasible.

Although not in strictness required to elucidate our present intent, it is, nevertheless, becoming the history of the case simply to mention that Mr. Charles O'Connor was, from the first, esteemed the

¹ Since the Vice-President of the United States.

² Then the acknowledged leader of the radical and controlling wing of the Republican party in the House of Representatives.

most valuable man to lead for the defence by Mr. Greeley and Mr. Gerrit Smith. A Democrat of pronounced repute, still his appearance would import no partisan aspect to the great argument, and would excite no feelings but those of admiration and respect among even extreme men of opposite opinion. Public expectation looked to him, and soon after it was made known that he had already volunteered his services to Mr. Davis. Mr. O'Connor's course during the war was decided, understood, and consistent, but never offensive nor intrusive; his personal honour without reproach; his courage without fear; his learning, erudition, and propriety of professional judgment conceded as most eminent.

There was a general agreement among the gentlemen of the Republican party whom I have mentioned, that Mr. Davis did not by thought or act participate in a conspiracy against Mr. Lincoln; and none of those expressed that conviction more emphatically than Mr. Thaddeus Stevens. The single subject on which light was desired by them was concerning the treatment of our soldiers while in the hands of the enemy. *The Tribune* of May 17, 1865, tells the real condition of feeling at that moment, and unequivocally shows that it was not favourable to Mr. Davis on this matter.

At the instance of Mr. Greeley, Mr. Wilson, and, as I was given to understand, of Mr. Stevens, I went to Canada the first week in January, 1866, taking Boston on my route, there to consult with Governor Andrew and others. While at Montreal

General John C. Breckinridge came from Toronto, at my request, for the purpose of giving me information. There I had placed in my possession the official archives of the Government of the Confederate States, which I read and considered, especially all those messages and other acts of the Executive with the Senate in its secret sessions concerning the care and exchange of prisoners. I found that the supposed inhuman and unwarlike treatment of their own captured soldiers by agents of our Government was a most prominent and frequent topic. That those reports, current then, perhaps even to this hour, in the South, were substantially incorrect is little to the practical purpose. From those documents, not made to meet the public eye, but used in secret session, and from inquiries by me of those thoroughly conversant with the state of Southern opinion at the time, it was manifested that the people of the South believed those reports to be trustworthy, and they individually, and through their representatives at Richmond, pressed upon Mr. Davis, as the Executive and as the Commander-in-chief of the Army and Navy, instant recourse to active measures of retaliation, to the end that the supposed cruelties might be stayed.

Mr. Davis's conduct under such urgency, and, indeed, expostulation, was a circumstance all-important in determining the probability of this charge as to himself. It was equally and decisively manifest, by the same sources of information, that

Mr. Davis steadily and unflinchingly set himself in opposition to the indulgence of such demands, and declined to resort to any measure of violent retaliation. It impaired his personal influence, and brought much censure upon him from many in the South, who sincerely believed the reports spread among the people to be really true.

The desire that something should be attempted from which a better care of prisoners could be secured seems to have grown so strong and prevalent, that on July 2, 1863, Mr. Davis accepted the proffered service of Mr. Alexander H. Stephens, the Vice-President, to proceed as a military commissioner to Washington. The sole purpose of Mr. Davis in allowing that mission appears, from the said documents, which I read, to have been to place the war on the footing of such as are waged by civilised people in modern times, and to divest it of a savage character, which, it was claimed, had been impressed on it in spite of all effort and protest; and alleged instances of such savage conduct were named and averred. This project was prevented, as Mr. Stephens was denied permission by our Administration to approach Washington, and intercourse with him prohibited. On his return, after this rejected effort to produce a mutual kindness in the treatment of prisoners, Southern feeling became more unquiet on the matter than ever; yet it clearly appears that Mr. Davis would not yield to the demand for retaliation.

The evidence tending to show this to be the true condition of the case as to Mr. Davis himself was brought by me and submitted to Mr. Greeley, and in part to Mr. Wilson. The result was, these gentlemen, and those others in sympathy with them, changed their former suspicion to a favourable opinion and a friendly disposition. They were from this time kept informed of each movement as made to liberate Mr. Davis or to compel the Government to bring the prisoner to trial. All this took place before counsel, indeed, before anyone acting on his behalf, was allowed to communicate with or to see him.

The Tribune now, at once, began a series of leading editorials demanding that our Government proceed with the trial; and on January 16, 1866, incited by those editorials, Senator Howard, of Michigan, offered a joint resolution, aided by Mr. Sumner, "recommending the trial of Jefferson Davis and Clement C. Clay before a military tribunal or court-martial, for charges mentioned in the report of the Secretary of War, of March 4, 1866." It will be interesting to mention now that if a trial proceeded in this manner, I was then credibly informed, Mr. Thaddeus Stevens had volunteered as counsel for Mr. Clay.¹

After it had become evident that there was no

¹ This has been since verified by the Hon. Andrew G. Curtin, lately United States Minister Plenipotentiary at St. Petersburg, upon information given to him by the literary executor of the late Mr. Stevens.

immediate prospect of any trial, if any prospect at all, the counsel for Mr. Davis became anxious that their client be liberated on bail, and one of them consulted with Mr. Greeley as to the feasibility of procuring some names as bondsmen of persons who had conspicuously opposed the war of secession. This was found quite easy; and Mr. Gerrit Smith and Commodore Vanderbilt were selected, and Mr. Greeley, in case his name should be found necessary. All this could not have been accomplished had not those gentlemen, and others in sympathy with them, been already convinced that those charges against Mr. Davis were unfounded in fact. So an application was made on June 11, 1866, to Mr. Justice Underwood, at Alexandria, Va., for a writ of habeas corpus, which, after argument, was denied, upon the ground that "Jefferson Davis was arrested under a proclamation of the President charging him with complicity in the assassination of the late President Lincoln. He has been held," says the decision, "ever since, and is now held, as a military prisoner." The *Washington Chronicle* of that date insisted that "the case is one well entitled to a trial before a military tribunal; the testimony before the Judiciary Committee of the House, all of it bearing directly, *if not conclusively*, on a certain intention to take the life of Mr. Lincoln, is a most important element in the case." This was reported as from the pen of Mr. John W. Forney himself, then Clerk

of the Senate, and is cited by me as an expression of a general tone of the press on that occasion. Then, the House of Representatives, on the motion of Mr. Boutwell of Massachusetts, the following day passed a resolution "that it was the opinion of the House that Jefferson Davis should be held in custody as a prisoner and subject to trial according to the laws of the land." It was adopted by a vote of 105 to 19.

It is very suggestive to reflect just here that, in the intermediate time, Mr. Clement C. Clay had been discharged from imprisonment without being brought to trial on either of these charges upon which he had been arrested, and for which arrest the \$100,000 reward had been paid.

This failure to liberate Mr. Davis would have been very discouraging to most men; but Mr. Greeley, and those friends who were acting with him, determined to meet the issue made, promptly and sharply, and to push the Government to a trial of its prisoner, or to a withdrawal of the charge made by its Board of Military Justice. The point was soon sent home, and was felt. Mr. Greeley hastened back to New York, and *The Tribune* of June 12, 1866, contained, in a leader from his pen, this unmistakable demand and protest:

"How and when did Davis become a prisoner of war? He was not arrested as a public enemy, but as a felon, officially charged, in the face of the civilised world, with the foulest, most execrable

guilt—that of having suborned assassins to murder President Lincoln—a crime the basest and most cowardly known to mankind. It was for this that \$100,000 was offered and paid for his arrest. And the proclamation of Andrew Johnson and William H. Seward offering this reward says his complicity with Wilkes Booth & Co. is established ‘by evidence now in the Bureau of Military Justice.’ So there was no need of time to hunt it up.

“It has been asserted that Davis is responsible for the death by exposure and famine of our captured soldiers; and his official position gives plausibility to the charge. Yet while Henry Wirz—a miserable wretch—a mere tool of tools—was long ago arraigned, tried, convicted, sentenced, and hanged for this crime—no charge has been officially preferred against Davis. So we presume none is to be.”

The Tribune kept up repeating this demand during the following part of that year, and admonished the Government of the increasing absurdity of its position, for not daring, seemingly, to prosecute a great criminal against whom it had officially declared it was possessed of evidence to prove that crime. On November 9, 1866, *The Tribune* again thus emphasised this thought:

“Eighteen months have nearly elapsed since Jefferson Davis was made a State prisoner. He had previously been publicly charged, by the President of the United States, with conspiring to assas-

sinate President Lincoln, and \$100,000 offered for his capture thereupon. The capture was promptly made and the money duly paid ; yet, up to this hour, there has not been even an attempt made by the Government to procure an indictment on that charge. He has, also, been popularly, if not officially, accused of complicity in the virtual murder of Union soldiers, while prisoners of war, by subjecting them to needless, inhuman exposure, privation, and abuse ; but no official attempt has been made to indict him on that charge. . . . A great Government may deal sternly with offenders, but not meanly ; it cannot afford to seem unwilling to repair an obvious wrong.”

The Government, however, continued to express its inability to proceed with the trial. Another year had passed since the capture of Mr. Davis, and now another attempt to liberate him by bail was to be made. The Government, by its conduct, having tacitly abandoned those special charges of inhumanity, a petition for a writ was to be presented by which the prisoner might be handed over to the civil authority to answer the indictment for treason. In aid of this project Mr. Wilson, Chairman of the Committee of Military Affairs, offered in the Senate, on the 18th of March, 1867, a resolution urging the Government to proceed with the trial. The remarkable thoughts and language of that resolution were observed at the time, and necessarily caused people to infer that Mr. Wilson, at least, was not

under the too common delusion that the Government really had a case on either of these two particular charges against Mr. Davis individually ; and a short time after this Mr. Wilson went to Fortress Monroe and saw Mr. Davis. The visit was simply friendly, and not for any purpose relating to his liberation.

On May 14, 1867, Mr. Davis was delivered to the civil authority ; was at once admitted to bail, Mr. Greeley and Mr. Gerrit Smith going personally to Richmond, in attestation of their belief that wrong had been done to Mr. Davis, in holding him so long accused upon those charges, now abandoned, and as an expression of magnanimity toward the South. Commodore Vanderbilt, then but recently the recipient of the thanks of Congress for his superb aid to the Government during the war, was also represented there, and signed the bond through Mr. Horace F. Clark, his son-in-law, and Mr. Augustus Schell, his friend.

The apparent unwillingness of the Government to prosecute, under every incentive of pride and honour to prosecute, was accepted by those gentlemen and the others whom I have mentioned as a confirmation of the information given to me at Montreal, and of its entire accuracy.

These men—Andrew, Greeley, Smith, and Wilson—have each passed from this life. The history of their efforts to bring all parts of our common country once more and abidingly into unity, peace,

and concord,¹ and of Mr. Greeley's enormous sacrifice to compel justice to be done to one man, and he an enemy, should be written.

I will add a single incident tending the same way. In a consultation with Mr. Thaddeus Stevens, at his residence on Capitol Hill, at Washington, in May, 1866, he related to me how the Chief of this "Military Bureau" showed him "the evidence" upon which the proclamation was issued charging Davis and Clay with complicity in the assassination of Mr. Lincoln. He said that he refused to give the thing any support, and that he told that gentleman the evidence was insufficient in itself, and incredible. I am not likely ever to forget the earnest manner in which Mr. Stevens then said to me: "Those men are no friends of mine. They are public enemies; and I would treat the South as a conquered country and settle it politically upon the policy best suited for ourselves. But I know these men, sir. They are gentlemen, and incapable of being assassins."

Yours faithfully,

GEORGE SHEA.

No. 205, WEST FORTY-SIXTH STREET,
NEW YORK, JANUARY 15, 1876.

¹ See Appendix on page 18.

From the NEW YORK HERALD, September 10th, 1875.

A SHORT CHAPTER OF HISTORY.

—♦—
LEXINGTON, KY., *September 8, 1875.*

Some years ago, when John C. Breckinridge, after the fall of the rebellion, was an exile in Europe, a story was put in circulation that his return to this country was due to an invitation from the late Horace Greeley. This story was never contradicted, although an attempt was made at the time to throw doubt upon it by the political friends of Mr. Greeley. Since the death of General Breckinridge, the true facts attending his return to America have come to light, and as both parties have departed, it seems due to history that they should be given to the world.

The letter written by Mr. Greeley concerning Mr. Breckinridge's return is addressed to Judge George Shea, of New York. This, and the letter inclosing it, written by Judge Shea to Mr. Breckinridge, are as follows :

Office of THE TRIBUNE,

NEW YORK, *April 8, 1867.*

MY FRIEND,—Since nearly all the military chiefs of the South in our late struggle—Generals Lee, Johnston, Beauregard, Longstreet, &c.—have stoutly advised their people to accept their situation unreservedly, and organise

their respective States, in accordance with the dictates of Congress, it seems to me a pity that the presence and counsel of General Breckinridge are wanting. We need them not in the South proper, but in his own Kentucky, where a most unfortunate attempt to perpetuate class distinctions, which have no longer any national justification or solid basis, threaten to perpetuate a feud and a struggle, which can do no good and must work great mischief. I wish, therefore, that you would communicate to General Breckinridge my assurance that his presence in this country (which is still his country) is needed, and will not, I think, provoke any exhibition of ill-will.

Yours,

George Shea, Esq.

HORACE GREELEY.

54, WILLIAM STREET, NEW YORK,

April 17, 1867.

MY DEAR SIR,—I enclose a letter which I have received from my friend, Mr. Horace Greeley, which I would have forwarded by the former mail had I then known your address. The letter will speak for itself, and I send you the original (with Mr. Greeley's cordial concurrence), so that, if you act upon the suggestion it contains, it may be in your power to make such public use of the letter as your own convenience and judgment may approve.

Last summer I thought it would be prudent under certain assurances, which I had reason to believe would be given to us at Washington, for you to come into the United States, and I designed to go to Canada and confer with you on the subject; but just as I was about to go there I heard that you were leaving for

Europe to return this spring. I thought it better to delay.

I have frequently spoken to republican gentlemen in the United States Senate and House of Representatives as to yourself, and find no ill-will against you personally ; indeed, they generally have the same thought and wish, so well and manfully expressed by Mr. Greeley in the enclosed letter, that your aid is needed by all interests here, especially in your own Kentucky.

I write briefly and in haste, as I wish this to leave by to-day's mail, which closes within the present hour.

I am, most faithfully yours,

GEORGE SHEA.

To the Hon J. C. Breckinridge.





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